

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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DAVID M. APPLEBY, SR.,

Plaintiff,

v.

Case No. 08-C-793

WISCONSIN RESOURCE CENTER,

Defendant.

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**ORDER**

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The plaintiff, David M. Appleby, Sr., who is proceeding pro se, lodged a civil rights complaint under 42 U.S.C. § 1983, alleging that his civil rights were violated. Plaintiff is currently incarcerated at Wisconsin Resource Center.

Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner plaintiff is required to pay the statutory filing fee of \$350.00 for a federal lawsuit. If a prisoner does not have the money to pay the filing fee up front, he or she can request leave to proceed *in forma pauperis* in order to pay the fee over time. To proceed with an action *in forma pauperis*, the prisoner must complete a petition and affidavit to proceed *in forma pauperis* and return it to the court with a certified copy of the prisoner's trust account statement showing transactions for the prior six months. The court then assesses and, when funds exist, collects from the plaintiff an initial partial filing fee of twenty percent of either the average monthly deposits to or the average monthly balance in the prisoner's trust account for the six-month period immediately preceding the filing of the complaint.<sup>1</sup>

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<sup>1</sup>In no event will a prisoner be prohibited from bringing a civil action because he or she has no assets and no means by which to pay the initial partial filing fee. 28 U.S.C. § 1915(b)(4).

In this case, the plaintiff filed a petition to proceed *in forma pauperis* and an appropriate affidavit. However, he did not file a certified copy of his institutional account statement showing transactions for the six-month period immediately preceding the filing of his complaint, as required under 28 U.S.C. § 1915(a)(2).

Plaintiff will be given 21 days from the date of this order to submit a certified copy of his institutional account statement, or show cause as to why he is unable to do so. Failure to take either action within the allotted time frame will result in dismissal of his complaint without prejudice.

**SO ORDERED.**

Dated this 22nd day of September, 2008.

s/ William C. Griesbach  
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WILLIAM C. GRIESBACH  
United States District Judge